

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2354 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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PIYOOSH NAUTAMLAL MUNSHI

Versus

STATE OF GUJARAT  
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Appearance:

MR KG VAKHARIA for Petitioner  
MR SP HASURKAR for Respondent No. 1  
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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 29/09/2000

ORAL JUDGEMENT

1. Heard learned counsel Mr. Vakharia for the petitioner and Mr.B.Y.Mankad, learned AGP as instructed by Mr. S.P.Hasulkar, learned Solicitor for the respondent State.

2. When this matter was placed for final hearing on 21.7.2000, it was brought to the notice of this Court that one petition being Spl.C.A. No. 5517/87 involving similar types of issues are pending before another Bench of this Court and, therefore, this matter should also be heard along with said petition. Appropriate orders were, therefore, passed on that day. However, today, I am told that said matter being Spl.C.A. No.5517/87 is disposed of by this Court ( Coram : B.C. Patel, J) vide detailed judgment dated 21.7.2000.

3. In response to the query raised by this Court, learned counsel Mr. Vakharia has placed copy of the judgment delivered by this Court ( Coram: B.C.Patel,J) on 21.7.2000 in aforesaid writ petition. Said petition was preferred by one Ramanbhai Dalwadi where he challenged the order passed by the State under sec.161 of the Bombay Civil Services Rules,1959. Considering the rival contentions and arguments advanced by the learned counsel appearing for the parties, said petition came to be dismissed vide aforesaid judgment. In this petition as well, the legal points involved in the matter are similar to that petition. Present petitioner has also prayed for a writ of mandamus or any writ, order or direction in the like nature to the effect that the impugned order dated 7.5.1987 at Annex.A compulsorily retiring the petitioner be quashed and set aside and respondent be directed to treat the petitioner as continued in service and to grant all consequential benefits till he reaches the age of 58 years i.e. age of superannuation. Considering the averments made in para-3.1 of the petition, a pointed question was asked to the learned counsel Mr. Vakharia whether the petitioner is exonerated from the charges levelled against him, I am told that the petitioner has been held guilty. The allegations against the petitioner are undoubtedly serious and grave in nature and decision to retire the petitioner compulsorily, even as per the say of the petitioner, has been taken by the Chief Minister. It seems that the decision was taken after due discrete inquiry. Under the circumstances, ratio of the decision in the case of Union of India v/s Col. J.M.Sinha, reported in 1970(2) SCC P.458, squarely applies to the case on hand. In nutshell, it can be said that case of the present petitioner is squarely covered by the judgment dated 21.7.2000 rendered by this Court (Coram : B.C.Patel, J) in Spl.C.A. No. 5517/1987 as the legal issues involved in both the petitions are same and both the petitions are of similar nature. Hence, for the sake of brevity, without quoting relevant paras or reasons recorded in the said decision or the observations of the

Apex Court with regard to exercise of powers in a particular contingency, I adopt the reasons given in the said decision as the reasons of this judgment, I am satisfied that prayer to quash impugned order at Annex.A to this petition cannot be granted.

4. Under the circumstances, without going into the merits of other contentions raised by the petitioner and adopting the reasons assigned by the learned Single Judge (Coram: B.C.Patel, J) in the aforesaid decision, this petition is hereby dismissed. Rule is discharged. No costs.

29.9.2000 [ C.K. BUCH, J ]

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